

REMARKS

Claims 1-39 are currently pending in the present application. Reconsideration and reexamination of the claims are respectfully requested.

The Examiner rejected Claims 1-3, 6-7, 10-32, 34, 37, and 38 under 35 U.S.C. 102(b) as being anticipated by Goldhaber (USP 5,794,210). This rejection is respectfully traversed.

The present invention is directed to a method and system for online distribution of products, such as entertainment or informational content, that are protected by intellectual property. Specifically, for products that are generally considered "premium" content and are thus typically covered by intellectual property, such as real-time stock quotes, a Wall Street Journal article, a television webcast, the results of a Yellow Page search, etc., the present invention withholds the display of, or access to, the product until after a sponsor message is first displayed to the consumer. For instance, a consumer may wish to look up an in-depth Consumer Reports review on a certain model of automobile, wherein the review is protected by copyright and would otherwise be available only to subscribers of Consumer Reports. A system implementing the present invention can be configured to allow the consumer access to the review if the consumer agrees to first view a sponsor message (such as an advertisement video or even a consumer survey) by an advertiser such as an automobile insurance company. The consumer, driven by a desire to read the review, may agree to view the message as a precondition to accessing the review.

The present invention offers a superior approach to the conventional online advertising wherein the goal has traditionally been to compete for consumer attention, or "eye-balls." Rather than pushing unsolicited advertisement to consumers who typically ignore such advertisement, the present invention displays messages to consumers who are already paying attention, and who have agreed to view the message as a precondition to accessing certain product such as premium content. Additionally, by linking the advertisement to a product, advertisement agencies can better tailor the various different types of advertisement messages or announcements to the

intended recipients. For instance, if the product being sought is related to cooking, then consumers who are seeking the product are most likely interested in food preparation, and hence are more responsive to advertisements or messages that are directed to food, dining, or cooking tools. The consumer chooses the content they desire without respect to the sponsoring advertiser.

Goldhaber does not contain any disclosure or suggestion of allowing access to a product only after a message has been displayed. Instead, Goldhaber teaches “orthogonal sponsorship” programs by which the advertisement message is detached from content (see Abstract). Rather than coupling advertisement with certain content, Goldhaber teaches providing direct financial incentives (e.g., “CyberCoin”) to consumers who elect to view certain advertisements that are presented to them by “attention brokers.” However, in order to ensure that effective advertisements are presented to the consumer, Goldhaber requires that the consumer establishes an online profile and enter personal data to indicate personal interests, demographics, etc. By using the personal data provided, the “attention brokers” can better allocate advertisements that are better targeted to the consumer.

The system described in Goldhaber suffers a serious disadvantage in that most consumers surfing the Internet are, due to recent privacy concerns, hesitant to provide personal data that may potentially be, or intended to be, shared with advertisers. In fact, consumers nowadays typically require service organizations such as financial institutions or retailers to warrant that the personal data entered will not be shared with advertisers. Yet, without such personal data from the consumers, the system described in Goldhaber would be ineffective since the advertisers would have no means by which to choose and push appropriately tailored advertisement for a given consumer.

The present invention, on the other hand, does not depend on knowing in advance the interests and preferences of a consumer. Rather, the present invention provides a system for distributing products that are already of interest to a consumer, and are made available to the consumer only after the consumer first views a message. This is very different from Goldhaber’s teachings, in which attention brokers actively seek out and push to consumers various different

advertisements without any regards to products or content. In fact, Goldhaber is simply not directed to a system for distributing products.

The system described in Goldhaber also suffers a serious disadvantage because the consumers are required to choose an advertiser from a limited list of advertisers in order to receive a common financial reward. The consumer's decision is based on their perceived interest in the advertising itself. This relies on compelling advertising or outrageous rewards (e.g. cash) to motivate viewing and opens the system to gaming. For instance, consumers might choose advertisers with which they are already familiar, or those which they know to be 'loose' with their money in order to maximize their financial reward, which subverts the value to the advertiser. This provides an incentive to watch advertising with no interest in the advertised product.

The present invention removes this advertising decision and accompanying opportunity to game the system from the consumers and instead enforces the value proposition that was intended and paid for by the advertiser. The advertiser does not need to provide any compelling content, brand recognition or excessive reward to reach consumers; the value proposition is driven by the consumer's preexisting interest in the underlying product. This is a situation finally favorable to monetizing the distribution of products that was not contemplated by Goldhaber.

For all of the reasons stated above, Applicant respectfully submits that Claims 1-3, 6, 7, 10-32, 34, 37, and 38 are not anticipated by, nor obvious in view of, Goldhaber.

The Examiner rejected Claims 4, 5, 8, 35, and 36 under 35 U.S.C. 103(a) as being unpatentable over Goldhaber in view of Wiser et al. (USP 6,385,596). This rejection is respectfully traversed.

As discussed above, Goldhaber does not contain any disclosure or suggestion of allowing access to a product only after a message has been displayed. Wiser fails to make up for the deficiencies of Goldhaber. Specifically, Wiser is directed to a secured online distribution of music. Wiser does not remotely suggest or teach restricting access to a product until after a

message is displayed. Accordingly, Applicant respectfully submits that Claims 4, 5, 8, 35, and 36 are not obvious in view of Goldhaber and Wiser.

The Examiner rejected Claims 9, 33, 35 and 39 under 35 U.S.C. 103(a) as being unpatentable over Goldhaber. This rejection is respectfully traversed.

Again, Goldhaber does not contain any disclosure or suggestion of allowing access to a product only after a message has been displayed. Applicant respectfully submits that Claims 9, 33, 35, and 39 are not obvious in view of Goldhaber.

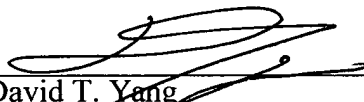
In view of the foregoing, Applicant respectfully submits that all of the pending claims are in condition for allowance. An early allowance is solicited. If the Examiner believes it would further advance the prosecution of the present application, he is respectfully requested to contact the undersigned attorney.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 513612000100.

Respectfully submitted,

Dated: December 6, 2004

By:


David T. Yang
Registration No. 44,415

Morrison & Foerster LLP
555 West Fifth Street
Suite 3500
Los Angeles, California 90013-1024
Telephone: (213) 892-5587
Facsimile: (213) 892-5454